255 Mulberry St.
Rochester, NY 14620
March 4, 1994

Susan Hauser, Esq.
Rochester Attorney's Office
411A City Hall
Rochester, NY 14614

Re: GAGV v. City Assessor

Dear Susan:

As we discussed yesterday, I am writing with respect to a final resolution of this matter.

Based on my initial computations, it appears that the City owes the GAGV roughly $9800 in previously paid taxes and interest. In addition, the City owes the GAGV $100 in awarded costs with respect to the GAGV's Motion to Amend Its Complaint, and $200 in statutory costs pursuant to CPLR §8201. Disbursements come to a total of $245 for the RJI and Index Number.

Finally, as I indicated, under CPLR §8303 a court has the discretion to award a prevailing party discretionary costs of 5% of the sum recovered, not to exceed $3000. The prevailing party must show that it was a "party to a difficult or extraordinary case where a defense [was] interposed." Under these circumstances, I believe that the court would be very amenable to plaintiff's motion for roughly $490 (5% of $9800) in discretionary §8303 costs.

To settle this action without further court intervention, however, I propose that the City agree to pay the GAGV §8303 discretionary costs in the amount of $355. This would, according to my preliminary calculations, come to a total of $10,700 in paid taxes, interest, costs, and disbursements.

Please let me know the City's response to this proposal. I will be out of town Monday and Tuesday, but I should be back Wednesday.

Thanks for your prompt attention to this matter. I am confident we can resolve this final aspect of the case without further intervention by the court.

Very truly yours,

Ellen M. Yacknin, Esq.

c: Susan Silverstein

City of Rochester

TDD/Voice 232-3260 **Department of Law** City Hall, Room 400-A
30 Church Street
Rochester, New York 14614-1295

March 11, 1994

Ellen M. Yacknin, Esq.
255 Mulberry St.
Rochester, NY 14620

Re: GAGV v. City Assessor

Dear Ellen,

Louis Kash and I have reviewed your March 4 letter. You indicate that your initial computations show that the City owes the GAGV a refund of taxes and interest of approximately $9,800. Our computations, however, indicate that the total refund should be $6,029.70. Attached is a sheet showing the break-down of the refund amount.

The refund would include the full amount of City and School taxes paid for the years 1991-92, 1992-93, and 1993-94, plus any interest paid by the GAGV on late tax payments, plus 9% annual interest on those amounts, computed through the end of this month.

We will also agree to pay $300 in costs, plus $245 in disbursements, as you have requested.

With respect to your claim for an allowance under CPLR 8303(a)(2), we do not believe a court would grant such an allowance, for the reason that this case was not a "difficult or extraordinary" case. There was no trial, no hearings, no testimony taken, no depositions, no voluminous or burdensome discovery (See Schwartz v. Bartle, 51 Misc.2d 215 (1966)). To the extent that the case was complicated somewhat by the GAGV's belated addition of a federal civil rights claim to the initial tax exemption claim, we do not believe the GAGV should be compensated for that complication, since the civil rights claim was rejected by the appellate court.

However, in the spirit of compromise, we will agree to an amount of $100 in settlement of your claim for a sec. 8303 allowance.

In summary, we will agree to pay the GAGV a total amount of

$6,674.70. Please let me know if this will be acceptable.

Very truly yours,

Susan L. Hauser
Municipal Attorney
(716) 428-6764

SLH
Encl.

NOT sent to SB

TOTAL INT:
9,768.12

GAGV CITY TAX PAYMENTS

Year	Date	Check #	Amount	Total	ACCUM	
1990	8/31	1889	$1,012.33			INT
	9/27	1916	$17.87			
	12/14	1976	$417.00			
				$1,447.20	$1,447.20	~~2041.40~~ 2226.66
1991	3/19	2036	$417.00			
	7/31	2132	$593.91			
	9/26	2204	$459.00			
				$1,469.91	$2,917.11	2074.88
1992	1/31	2254	$344.25			
	2/1	2283	$23.91			
	2/1	2284	$459.00			
	7/27	2398	$629.15			
	9/23	2450	$363.75			
				$1,820.06	$4,737.17	2357.01
1993	1/29	2550	$485.00			2551.49
	3/24	2597	$485.00			
	7/12	2737	$665.55			
	9/23	2809	$512.00			
				$2,147.55	$6,884.72	
1994	1/30	512				

731.91

558.08

1550 .545 98

10 .345

10 .300 345 355

10 .600

COUNTY TAXES

1991	1/17	1999	$589.74
1992	1/28	2265	$455.26
1993	1/29	2553	$608.49

1994 1/30/94 512

1550 10600 10345 255

9800 300 245 10345

7800 .300 245 10345

C O M P U T A T I O N O F R E F U N D

Resulting from a Court Order Directing the Granting of a Tax Exemption
for the Gay Alliance of Genesee Valley, Inc.

179-183 Atlantic Avenue SBL # 121.280-0002-065 QV

TAX YEAR	PAYMENT DATE	TOTAL PAYMENT	PRINCIPAL PAID	INTEREST PAID	CITY/SCHOOL PAID	INTEREST DUE TO C/S	C/S & INT CREDIT	MONTHS ELAPSED	INTEREST RATE	INTEREST AMOUNT	CREDIT PLUS INTEREST
1991-92-											
	08-08-91	$593.91	$585.13	8.78	$454.63	$6.82	$461.45	32	24.00%	110.75	$572.20
	10-08-91	459.00	451.95	7.05	449.99	6.96	456.95	30	22.50%	102.81	559.76
	02-06-92	459.00	451.27	7.73	451.27	7.73	459.00	26	19.50%	89.51	548.50
	03-09-92	482.91	482.56	0.35	482.56	0.35	482.91	25	18.75%	90.55	573.46
1992-93-											
	07-31-92	629.15	629.15	0.00	485.85	0.00	485.85	20	15.00%	72.88	558.73
	09-29-92	485.00	485.00	0.00	485.00	0.00	485.00	18	13.50%	65.48	550.47
	01-27-93	485.00	485.00	0.00	485.00	0.00	485.00	14	10.50%	50.93	535.93
	03-26-93	485.00	485.00	0.00	485.00	0.00	485.00	12	9.00%	43.65	528.65
1993-94-											
	07-14-93	665.55	665.55	0.00	516.30	0.00	516.30	8	6.00%	30.98	547.28
	09-24-93	512.00	512.00	0.00	512.00	0.00	512.00	6	4.50%	23.04	535.04
	02-03-94	512.00	512.00	0.00	512.00	0.00	512.00	2	1.50%	7.68	519.68
TOTAL					$5,319.60	$21.86	$5,341.46			$688.24	$6,029.70

front postage charges
delinquent bills.

M E M O R A N D U M

TO: Lloyd Gray/Harlow Russell

FROM: Ellen Yacknin

RE: GAGV Taxes and Interest

DATE: March 15, 1994

Attached is the letter I sent to Susan Hauser, her response to me, and the letter you sent me with the GAGV's accounting. As you know, we are working from the statute that states, simply, that we are entitled to "9% interest per annum" on any amounts owed to us, computed from the date the amounts were owed to us. That's what you should keep in mind as you read this memo.

After some discussions with Chic Parker, the Tax Assessor's Office (I called as an innocent interested potential building purchaser), and Susan Hauser, I suspect that Susan's amount is probably a lot closer to accurate than my original amount is, though not entirely accurate.

Unfortunately (and I checked this out), we probably have no basis to argue that we are owed any taxes we paid from 3/90 to 6/30/91. This is because to have tried to get tax exempt status for the tax year (7/1/90 to 6/30/91), we would have had to apply for tax exempt status by 2/1/90 (the last date we could have filed an application to qualify for that year's tax exemption), and we couldn't file by 2/1/90 because we didn't own the building until 3/90! The next round of applications had to be in by 2/1/91 for tax year 7/1/91 - 6/30/90, and we made that round, but the exemption does not apply retroactively to previously paid taxes. As a result, by virtue of having bought the building in March, we were forced to pay taxes for for March 1990 through June 1991 without much recourse.

According to Susan, of each check we wrote, the majority -- but not all -- of it went for city/school taxes, the only amounts we're entitled to recover. The other amounts go for front footage charges, delinquency charges, and maybe some other stuff. As a result, the actual amounts of city/school taxes (plus applicable late charges paid on the taxes) are in the 5th column from the right, for a total of $5,341.46.

In computing the interest, I had used a simple formula of multiplying the total amount paid per calendar year by 9%, each year. The Assessor, however, has prorated -- and multiplied -- the 9% interest rate to reflect the number of months that elapsed since the taxes were paid. This calculation obviously gives a lot lower amount of interest than I had originally calculated.

One problem I have with the Assessor's computation is that (if I'm right) is doesn't have the same cumulative effect that compounding each year would have. For example, if we paid $500 twenty four months ago, the Assessor would say that the interest rate to be applied to the $500 is 18% (2 x 9% per year, since the statute provides for 9% per year). This would come to $590.00. However, if we said we were entitled to 9% for the first twelve months, and 9% again for the next twelve months, the total would come to $594.05 (i.e., 109% of $500 is $545; 109% of $545 is $594.05.

It may be worth it to do our own calculations that reflect that 9% is taken first for every 12 months the taxes were paid, and 9% again for the next 12 months, and then a prorated amount for the remainder months less than a year. Are you up for doing this?

On the other hand, it looks like the City's figures give us a slight edge in another respect. If you look at the "Total Payment" Column, thrid column from the left, and add up all the amounts paid from 8/1/91 to 2/3/94, the City has us paying $236.00 more than what it looks like we say we paid in that time period (again, if I'm computing it right). So even though the City might be chintzing us on how they computed the interest, we are actually accumulating interest on $236 (apparently paid in March 1992 and September 1992) that we may not (or maybe we did) have paid.

If you understand all this, good. Basically, I need to know from you all what to do. Should I negotiate further with respect to their method of calculating interest? Should I accept their amounts? Harlow, if you have any other way to analyze these figures and to come up with our best rate, let me know.

I would appreciate a fast response from you so we can finally end the agony. My home number is 256-0508, and work is 454-6500. In the meantime, I'm going to run this by Susan Silverstein, also; after all, she was an MIT math major!!

Thanks.

255 Mulberry St.
Rochester, NY 14620
March 22, 1994

Susan Hauser, Esq.
Rochester Attorney's Office
411A City Hall
Rochester, NY 14614

Re: GAGV v. City Assessor

Dear Susan:

After much discussion, my clients have asked me to accept the City's offer as set forth in your letter of March 11, 1994. Accordingly, I am writing to advise you that the GAGV accepts the City's offer of $6,674.70 in full settlement of this action.

Please mail the check (or checks) to me at the above address so I can pass them on to the GAGV. In addition, I will be happy to sign a release or stipulation of settlement that you might require.

I think it is safe to assume that you are probably as relieved as the GAGV, Susan Silverstein and I are that this matter is now concluded. Given the new administration, it feels like an especially appropriate time to end this chapter of the GAGV's relationship with the City, and to start anew. I expect that the City's relationship with the GAGV in the next few years will be somewhat smoother than it has been recently; the GAGV is, I know, greatly excited by that prospect.

On a tax exemption matter, I noticed when I reread the application form in the Record that tax exempt organizations apparently are required to submit renewal forms EA-420-a/EA-420-b-RNW-I and EA-420-a/EA-420-b-RNW-II each year following the grant of a tax exemption. I would greatly appreciate it if you would explain the renewal requirements and deadlines to me, and enclose copies of the requisite forms. If any of this year's deadlines have passed, how can the GAGV be accommodated given the unique situation?

Thanks very much for responding to these questions, and to getting back to me with respect to the settlement amount. I look forward to hearing from you soon.

Very truly yours,

Ellen M. Yacknin

c: Susan Silverstein
Lloyd Gray, GAGV President

255 Mulberry St.
Rochester, NY 14620
March 30, 1994

Susan Hauser, Esq.
Rochester Attorney's Office
411A City Hall
Rochester, NY 14614

Re: GAGV v. City Assessor

Dear Susan:

Enclosed please find the signed Stipulation and Release, as you requested in your letter of March 24, 1994. Please send me a copy of the fully signed Stipulation, as well as any proof of filing that you obtain, for my files.

Thank you for the information regarding the exemption renewal process. I will convey this information to the GAGV so that the proper papers are submitted in the future.

I look forward to receipt of the agreed upon checks totaling $6,674.70.

Thank you for taking care of these wrap-up matters. I appreciate it.

Very truly yours,

Ellen M. Yacknin, Esq.

b. $688.24, constituting interest on the above-listed refund, at the rate of 9% per year.

c. $300.00 in statutory costs.

d. $245.00 in disbursements.

e. $100.00 in settlement of the plaintiff's claim to an additional allowance under CPLR 8303.

2. The plaintiff acknowledges receipt of the payment described above, accepts such payment in full satisfaction of the defendant's obligations in this case, agrees that it will seek no further payments or other relief from the defendant in this case, and releases the defendant from any further claims in this case.

Dated: March 30, 1994

Ellen M. Yacknin

Ellen M. Yacknin, Esq.
Attorney for Plaintiff
255 Mulberry St.
Rochester, NY 14620

Dated: _____

_____

Louis N. Kash, Esq.
Corporation Counsel
Attorney for Defendant
400A City Hall
Rochester, NY 14614

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

GAY ALLIANCE OF GENESEE VALLEY, INC.,

Plaintiff,

v. STIPULATION AND RELEASE

CITY ASSESSOR, CITY OF ROCHESTER, NEW YORK, Index No. 8872/91

Defendant.

An order was signed by the Hon. Andrew V. Siracuse, J.S.C., in this case on April 20, 1993, and entered in the Monroe County Clerk's Office on April 28, 1993. Among other things, the order granted summary judgment to the plaintiff. The order was appealed to the Appellate Division, Fourth Department, by the defendant. On February 4, 1994, the Appellate Division issued an order modifying the order of Justice Siracuse in certain respects and affirming the order as modified.

Now, the parties wish to finally dispose of this case, and have agreed to the following terms, through their respective attorneys:

1. An amount of $6,674.70 is herewith paid by the defendant to the plaintiff, broken down as follows:

   a. $5,341.46, constituting a refund of City and School taxes paid by the plaintiff to the defendant for the 1991-92, 1992-93, and 1993-94 tax years, and of interest paid by the plaintiff to the defendant for late payment of certain of those tax payments.